

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. LUBA will affirm a county’s finding that fire protection measures that typically apply to logging operations are sufficient to ensure that a proposed mining operation in a forest zone will not significantly increase fire hazards, notwithstanding that a permanent mining operation will have greater duration and intensity than a seasonal logging operation, where the petitioners cite to no evidence substantiating their assertion that the nature and intensity of the mining operation require more stringent fire protection measures than logging operations. *Comden v. Coos County*, 56 Or LUBA 214 (2008).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where the Goal 5 program requires that the riparian setback be determined from the “top of high bank,” as characterized by “an abrupt or noticeable change from a steeper grade to a less steep grade,” a hearings officer errs in locating the top of high bank without addressing whether the location is characterized by an abrupt or noticeable change in grade. *The Piculell Group v. City of Eugene*, 56 Or LUBA 298 (2008).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Remand is necessary where one element of the test for determining the location of top of high bank is contingent on a finding that “natural conditions prevail,” but the hearings officer locates the top of high bank under that element without finding or explaining why “natural conditions prevail.” *The Piculell Group v. City of Eugene*, 56 Or LUBA 298 (2008).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Remand is necessary where the city attorney concludes in an enforcement action that intervenor’s use of land is unlawful on two separate grounds, and the city council reverses the city attorney’s decision on one ground and approves the use of land, but does not address the second ground for concluding that the use of land is unlawful. *Fessler v. City of Fossil*, 55 Or LUBA 1 (2007).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where the Oregon Department of Fish and Wildlife (ODFW) testifies that that county’s Goal 5 program to protect Other Winter Range relies upon resource zoning to limit residential density, and the findings do not address that testimony or explain why the county believes it can rezone Other Winter Range land to nonresource use without amending the county’s Goal 5 program, LUBA will remand the decision to address the issue. *Lofgren v. Jackson County*, 55 Or LUBA 126 (2007).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where the county criteria that govern division of EFU-zoned land require that parcels be 160 acres or larger and require that divisions of EFU-zoned land comply with applicable comprehensive plan policies, and partition opponents argue that dividing an EFU-zoned parcel into parcels that are smaller than 160 acres violates those criteria and plan policies, the county’s decision will be remanded where the county fails to address those arguments. *Friends of Umatilla County v. Umatilla County*, 55 Or LUBA 330 (2007).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. A city’s failure to find that it is feasible to construct a driveway without encroaching on adjacent property is not a basis for remand, where the applicable criteria require no finding of feasibility, and the petitioner identifies no physical or other impediment to constructing the driveway without encroachment. *Brodersen v. City of Ashland*, 55 Or LUBA 350 (2007).

1.4.6 Administrative Law - Adequacy of Findings - Issues Addressed. An equipment shed may or may not be allowed as part of a utility, where the zoning ordinance defines a “building,” in part, as a “structure” and allows utilities in all zones but prohibits such utilities from including a “building.” Because the zoning ordinance distinguishes between “structures” and “accessory structures,” the issue becomes whether the equipment shed qualifies as an “accessory structure” and whether the prohibition is limited to “structures” and does not extend to “accessory structures.” *Skyliner Summit at Broken Top v. City of Bend*, 54 Or LUBA 316 (2007).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Remand is necessary where the local government’s approval of an asphalt batch plant fails to address issues raised regarding the impact of emissions on especially sensitive crops grown nearby. *Rickreall Community Water Assoc. v. Polk County*, 53 Or LUBA 76 (2006).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Findings concluding that a total variance from a code requirement to provide ten off-street parking spaces is the “minimum necessary to alleviate the hardship” are inadequate, where the findings fail to address whether an adjacent site could provide at least some of the required ten parking spaces. *Grant v. City of Depoe Bay*, 53 Or LUBA 214 (2007).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. When a local government imposes a condition of approval based on a code provision regarding excessive demand created by a proposed development, but the local government does not find that the proposed development will cause excessive demand, ignores the developer’s proposed interpretation of excessive demand, and does not provide its own interpretation, the decision must be remanded. *PacWest II, Inc. v. City of Madras*, 53 Or LUBA 241 (2007).

1.4.6 Administrative Law - Adequacy of Findings - Issues Addressed. In applying a compatibility standard a county does not err by failing to consider whether subdivision covenants, conditions and restrictions prohibit cell towers, where (1) it is not possible to determine if the covenants, conditions and restrictions were adopted to achieve compatibility, (2) there is a dispute about whether the covenants, conditions and restrictions apply, and (3) the county is not the body with jurisdiction to determine whether the covenants, conditions and restrictions apply. *Clark v. Coos County*, 53 Or LUBA 325 (2007).

1.4.6 Administrative Law - Adequacy of Findings - Issues Addressed. In applying a compatibility standard, a county does not err in failing to consider evidence about the impact the proposed use may have on property values, where the evidence is conflicting and the development code does not list impact on property values as a mandatory consideration in applying the compatibility standard. *Clark v. Coos County*, 53 Or LUBA 325 (2007).

1.4.6 Administrative Law - Adequacy of Findings - Issues Addressed. Where a rezoning opponent specifically cites and quotes comprehensive plan policies and argues the proposed rezoning is inconsistent with those policies, it is generally risky for a local government to approve the rezoning without specially addressing the cited comprehensive plan policies. However, where the petitioner makes no attempt to tie his substantive arguments to the cited plan policies and the city's responsive findings adequately address petitioner's substantive arguments, the city's failure to tie its responsive findings to the cited plan policies is not important. *Ettro v. City of Warrenton*, 53 Or LUBA 485 (2007).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where planned unit development subdivision opponents argued before the city that the proposal was inconsistent with a number of comprehensive plan provisions, and it is not clear why at least some of those comprehensive plan requirements are not relevant approval requirements, the city erred by not addressing those comprehensive plan provisions in its findings and explaining why they do not apply as approval requirements or why the proposal is consistent with those requirements if they do apply. *Wasserburg v. City of Dunes City*, 52 Or LUBA 70 (2006).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where a city adjustment committee lacks authority to consider a legal issue, the adjustment committee does not err by failing to address that legal issue in its findings, even though petitioners raised the legal issue below. *O'Brien v. City of Portland*, 52 Or LUBA 113 (2006).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. While it may be error to adopt findings of compliance with Goal 16 that consider only the positive economic benefits of the plan amendment without considering countervailing evidence of negative impacts, petitioners demonstrate no such error where the local government in fact considered the countervailing evidence and rejected it as unpersuasive and speculative. *People for Responsible Prosperity v. City of Warrenton*, 52 Or LUBA 181 (2006).

1.4.6 Administrative Law - Adequacy of Findings - Issues Addressed. Where specific criticisms of a transportation impact analysis are made, silence or continued support of the transportation impact analysis by the city engineer and Oregon Department of Transportation engineers is not sufficient to refute those issues. Ignoring issues is not the same thing as implicitly refuting those issues. *Wal-Mart Stores, Inc. v. City of Bend*, 52 Or LUBA 261 (2006).

1.4.6 Administrative Law - Adequacy of Findings - Issues Addressed. Where a county interprets its code to require submittal of expert studies to more precisely establish the boundary of a significant natural resource area, a hearings officer may consider expert studies from the applicant and opponents, accept and reject parts of both studies, and require protection of a natural resource area that is smaller than proposed by opponents and larger than proposed by the applicant. *Kyle v. Washington County*, 52 Or LUBA 399 (2006).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. A finding that expansion of an existing stormwater facility will improve problems with the existing facility, combined with a condition of approval requiring that the expanded facility not exacerbate existing problems, is sufficient to address concerns raised by petitioner that the expanded facility might exacerbate existing overflow problems. *Bollam v. Clackamas County*, 52 Or LUBA 738 (2006).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where on remand from LUBA the applicant withdraws a proposal for owner-occupancy that prompted the remand, that withdrawal moots that issue, and a finding to that effect is adequate to dispose of the issue on remand. *Friends of the Metolius v. Jefferson County*, 51 Or LUBA 188 (2006).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Findings supporting a variance approval are not inadequate merely because they do not quote *verbatim* the applicable approval criteria; petitioners must explain how the “summary” of the applicable provision makes the findings inadequate or how the city misapplied the criteria. *Spooner v. City of Salem*, 51 Or LUBA 237 (2006).

1.4.6 Administrative Law - Adequacy of Findings - Issues Addressed. Where a variance criterion requires the city to find that “public need” outweighs “adverse impacts” of developing wetlands and a party argues there is no market demand for the commercial development that the variance would allow, the city must address in its findings the role, if any, that market demand plays under the variance criterion and explain why the public need, as the city interprets those words, outweighs the identified potential adverse impacts. *Neighbors 4 Responsible Growth v. City of Veneta*, 51 Or LUBA 363 (2006).

1.4.6 Administrative Law - Adequacy of Findings - Issues Addressed. Where a variance criterion requires the city to find that “public need” outweighs “adverse impacts” of developing wetlands and a party identifies many potential adverse impacts of such development, a city’s findings must do more than explain how the potential adverse impacts will be mitigated; the findings must explain why the public need outweighs the potential adverse impacts, as they may be mitigated. *Neighbors 4 Responsible Growth v. City of Veneta*, 51 Or LUBA 363 (2006).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where a city council adopts as findings the application for approval of an RV park on a 3.5-acre parcel

in a zone with a 10-acre minimum lot size, and those findings do not address petitioner's assertion at the local hearing that applicant must obtain a variance to the minimum lot size requirement, remand is appropriate for the city council to adopt findings addressing that issue. *Jacobsen v. City of Winston*, 51 Or LUBA 602 (2006).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Findings supporting a zone change are inadequate where they fail to address portions of the applicable approval criterion because the findings misquote the applicable zone change approval criterion, omitting language that refers to needed housing and requires that added emphasis be given to the comprehensive plan's housing policies. *Premier Development v. City of McMinnville*, 50 Or LUBA 666 (2005).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where a petitioner argues at the local level that the Transportation Planning Rule (TPR) applies to the challenged decision because a condition of approval of a previous zone change arguably requires application of the TPR, the decision maker is required to at least address the issue in its decision and explain why the TPR does not apply. *Wal-Mart Stores, Inc. v. City of Medford*, 49 Or LUBA 52 (2005).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Findings that a text amendment adding a new use to a park zone are inadequate to address protection of historic sites under Goal 5, where the findings address only one of several parks with historic sites, and fail to explain why allowing a new potentially conflicting use on or near historic sites is consistent with Goal 5. *Cox v. Polk County*, 49 Or LUBA 78 (2005).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. A hearings officer errs in approving a cul-de-sac under subdivision criteria that allow a cul-de-sac only where existing development on adjacent property prevents a street connection and a connected street pattern is not possible, where (1) the "existing development" is on the same property being subdivided, (2) there is evidence that a street connection is possible, and (3) there are no findings explaining why a street connection is not possible. *Paterson v. City of Bend*, 49 Or LUBA 160 (2005).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where the approved tentative plat does not propose curbs on a private street, but the hearings officer's findings suggest that curbs will be provided to direct storm water to catch basins and there is expert testimony that curbs are necessary to direct storm water to catch basins, remand is necessary to address whether the decision requires curbs and, if not, how storm water will be directed to catch basins. *Paterson v. City of Bend*, 49 Or LUBA 160 (2005).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where the decision approves a cul-de-sac that may be longer than 600 feet, depending on how the "block" is measured, remand is necessary to explain how the blocks created by the cul-de-sac comply with a subdivision approval standard prohibiting blocks longer than 600

feet as measured between the centerline of “through cross streets.” *Paterson v. City of Bend*, 49 Or LUBA 160 (2005).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. A finding that lands within a UGB are “unavailable” for a proposed public storage facility is inadequate, where the county fails to address evidence that there is a large surplus of vacant industrial and commercial lands within the UGB that allow public storage facilities, and there is no basis to conclude that such lands are not “available.” *Friends of Yamhill County v. Yamhill County*, 49 Or LUBA 529 (2005).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Remand is necessary where, on remand from LUBA, the local government approves unspecified modifications to an approved site plan without addressing issues raised on remand regarding whether those modifications are consistent with applicable criteria. *Friends of the Metolius v. Jefferson County*, 48 Or LUBA 466 (2005).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. A local government’s failure to address issues raised regarding whether a enhanced wetland project is consistent with the purpose of the EFU zone is at most harmless error, where petitioners do not explain why the purpose statement is an approval criterion. *Cadwell v. Union County*, 48 Or LUBA 500 (2005).

1.4.6 Administrative Law - Adequacy of Findings - Issues Addressed. Where a planning department finds that a proposed home occupation would violate two of twelve home occupation standards and following a local appeal a hearings official finds the proposed home occupation would not violate those two standards, assignments of error in a LUBA appeal of the hearings official decision that allege the home occupation would violate other standards that neither the planning department nor the hearings official considered provide no basis for reversal or remand, where the petitioners cite no legal authority that would compel the hearings official to render a complete adjudication concerning all home occupation standards. *Revoal v. City of Eugene*, 47 Or LUBA 136 (2004).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. When a petitioner raises an issue concerning a specific comprehensive plan provision, a local government is obligated to explain the extent to which, if any, the provision applies to the decision. *Doob v. Josephine County*, 47 Or LUBA 147 (2004).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where a city transportation plan assigns responsibility to the city engineer to determine the scope of a traffic study necessary to assess development impacts on “nearby key intersections,” the city engineer’s decision to limit the traffic study to intersections adjacent to the subject property and not to require study of intersections five blocks away is not a basis for reversal or remand, absent an explanation from petitioners as to why those intersections are both “nearby” and “key.” *Heilman v. City of Corvallis*, 47 Or LUBA 305 (2004).

1.4.6 Administrative Law - Adequacy of Findings - Issues Addressed. Where approval of an adjustment to create an oversize tract of land must not significantly detract from the livability or appearance of the residential area, a city commits no error in limiting its analysis to the oversize tract and declining to consider the possible impacts of developing another proposed tract that does not require a maximum lot size adjustment. *South v. City of Portland*, 46 Or LUBA 558 (2004).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. While a county need not address every possible farm use defined under ORS 215.203(2)(a) in adopting a committed exception to Goal 3, when a party below identifies a particular farm use that may be practicable, the county must address the practicability of that farm use. *Friends of Douglas County v. Douglas County*, 46 Or LUBA 757 (2004).

1.4.6 Administrative Law - Adequacy of Findings - Issues Addressed. There is no generally applicable rule that in approving a land use proposal a local government must find that the proposal complies with state permitting requirements or that it is feasible for the proposal to comply with state permitting requirements. *Paddock v. Yamhill County*, 45 Or LUBA 39 (2003).

1.4.6 Administrative Law - Adequacy of Findings - Issues Addressed. A local government’s failure to adopt findings addressing the potential impacts a subdivision will have on nearby wells and whether the applicant will be able to secure required state permits for its water supply could only provide a basis for remand by LUBA if there is some legal requirement that the local government adopt such findings. *Paddock v. Yamhill County*, 45 Or LUBA 39 (2003).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where a site design review purpose statement includes a requirement that decision makers “consider” certain impacts caused by a proposed site design, including impacts on neighboring land values, the decision must address issues that parties raise about those impacts, notwithstanding the fact that none of the approval criteria specifically require that impacts on neighboring land values be addressed. *Freeland v. City of Bend*, 45 Or LUBA 125 (2003).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. A city’s findings that a proposed annexation is consistent with applicable annexation policies that require a showing that (1) adequate public facilities are available to serve the property; (2) the proposed annexation is needed; and (3) the annexation will result in a compact growth pattern, are not adequate when they fail to address petitioner’s arguments that (1) not all of the needed public facilities have been determined to be available; (2) that the annexation is not needed because there is an abundance of available land within city limits; and (3) the annexation will not result in a compact growth pattern because it will result in a bulge in city limits that is almost entirely surrounded by unincorporated territory. *Friends of Linn County v. City of Lebanon*, 45 Or LUBA 204 (2003).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. A county does not commit reversible error by failing to expressly reject a party’s interpretative argument, where it is clear that the county implicitly rejected that interpretive argument. *Underhill v. Wasco County*, 45 Or LUBA 566 (2003).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where a code provision appears to require analysis of cumulative impacts of development proposals, but the city’s decision does not address cumulative impacts and the city’s response brief fails to explain why no cumulative impact analysis is required or why the existing findings adequately address such impacts, LUBA will remand for the city to provide that explanation. *Bauer v. City of Portland*, 44 Or LUBA 210 (2003).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. A city council decision approving a subdivision with modifications for required road access must be remanded where it is unclear which documents if any the city council adopted as part of its decision, and the city council decision includes no findings explaining the modification, or reducing the required road access to a condition of approval. Petitioner’s appeal is sufficient to allege prejudice to petitioner’s substantial rights. *Shaffer v. City of Happy Valley*, 44 Or LUBA 536 (2003).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. City findings that specifically respond to a petitioner’s interpretational challenge and address the only comprehensive plan goal that petitioner cites in support of that interpretational challenge are adequate to overcome petitioner’s challenge that the city’s findings are inadequate. *Dimone v. City of Hillsboro*, 44 Or LUBA 698 (2003).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. A county’s findings regarding the infeasibility of locating a radio transmission tower on either of two city-owned lots are adequate where the findings parallel an earlier memorandum in the record regarding one of the tax lots, and that earlier memorandum addresses the infeasibility of the other tax lot, notwithstanding the county’s failure to recite specific aspects of the memorandum addressing the second tax lot. *Van Nalts v. Benton County*, 42 Or LUBA 497.

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. A city decision concluding that applying local sign ordinance criteria to deny a sign permit would violate Article I, section 8, of the Oregon Constitution is inadequate, where the findings do not identify what aspects of the local sign ordinance the city believes would be found to be unconstitutional or explain why the city believes it would be unconstitutional to apply the sign ordinance. *Haug v. City of Newberg*, 42 Or LUBA 411.

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where an application for city approval of a sign that is larger than allowed by city sign standards does not meet the city’s criteria for approval of such larger signs, a city may not cite constitutional concerns and approve the request for a larger sign without (1) adopting a reviewable decision that explains what constitutional provisions the city believes would be violated and why, and (2) explaining why the appropriate remedy in that circumstance

would not be to deny the request until constitutional provisions for allowing such larger signs are adopted. *Haug v. City of Newberg*, 42 Or LUBA 411.

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where a city zoning ordinance permits consideration of consolidated applications and it is not apparent that an independent process is available to consider related permits, and petitioners raised the issue of compliance with standards required for the related permits during the pendency of a conditional use application, the city erred by failing to address petitioners' argument that the related permit standards must be satisfied before the conditional use permit could be approved. *Monogios and Co. v. City of Pendleton*, 42 Or LUBA 291.

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where a permit approval criterion requires that certain driveway improvements be made to ensure emergency vehicle access, it is error to simply approve the permit conditioned on future construction of the required driveway improvements, where there is focused testimony during the permit evidentiary hearing that the easement the permit applicant intended to rely on would not permit the required improvements. The permit findings must address the testimony and explain why it is reasonable to assume the required improvements can be made. *Harshman v. Jackson County*, 41 Or LUBA 330 (2002).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Although local governments are required to address legitimate issues that are raised in a quasi-judicial land use proceeding concerning relevant approval criteria, local governments are not required to address in their findings every conflict in the evidence or every criticism that is made of particular evidence. *Knight v. City of Eugene*, 41 Or LUBA 279 (2002).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where detailed arguments are presented in the petition for review questioning the need for an additional parking lot to supply adequate parking and the challenged decision treats the need for the additional parking as a relevant issue, but the respondent's brief does not respond to that issue, a remand is required. *Boly v. City of Portland*, 40 Or LUBA 537 (2001).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where comprehensive plan policies require efforts to reduce automobile use and encourage mass transit use, and arguments are presented that approving an additional parking lot adjacent to a light rail station is inconsistent with those policies, the city's unexplained dismissal of the issue requires remand. *Boly v. City of Portland*, 40 Or LUBA 537 (2001).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Findings that other resource lands that are potential candidates for inclusion in the UGB are better or more productive resource lands than the subject property, and therefore the environmental, social, energy, and economic (ESEE) consequences of urbanizing other resource lands would be more adverse than urbanizing the subject property, are adequate for purposes of OAR 660-004-0010(1)(c)(B)(iii). Such findings need not specifically identify and discuss each ESEE consequence with respect to each alternative site, absent

issues raised below that would require more detailed discussion. *Alliance for Responsible Land Use v. Deschutes Cty.*, 40 Or LUBA 304 (2001).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. In evaluating reasonable alternatives to siting a utility facility necessary for public service in an EFU zone, a county must consider alternative sites identified by opponents that appear to satisfy an applicant’s siting requirements and are not located on EFU-zoned land. *Jordan v. Douglas County*, 40 Or LUBA 192 (2001).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Reasonable alternatives to siting a utility facility necessary for public service in an EFU zone do not include non-EFU sites that the owner will not sell or lease to the utility provider. *Jordan v. Douglas County*, 40 Or LUBA 192 (2001).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. In addressing an “adequate public facilities” zone change criterion, a county is not required to adopt findings specifically addressing every use allowed in the proposed commercial zone; more general findings may suffice. Where no party raises any issue concerning potential uses that may place more stringent demands on public facilities than the proposed use, the county may limit its consideration to the proposed use. *Swyter v. Clackamas County*, 40 Or LUBA 166 (2001).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. A city’s failure to respond to issues raised below regarding whether the “street frontage” of a flag lot is the same as its “front building line” provides no basis for remand, where it is clear under the city’s land division ordinance that “street frontage” and “front building line” are not the same. *Webb v. City of Bandon*, 39 Or LUBA 584 (2001).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where a city adopts findings addressing issues raised by petitioner during local proceedings, petitioner presents no basis for reversal or remand by repeating those issues at LUBA without challenging the findings the city adopted to address those issues. *Adams v. City of Medford*, 39 Or LUBA 464 (2001).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where a county’s findings simply state that conditions are being imposed to address identified environmental impacts from a proposed aggregate extraction site that must be addressed under local approval criteria, but the conditions that are imposed have nothing to do with the cited environmental concerns, the decision must be remanded to the county. *Donnell v. Union County*, 39 Or LUBA 419 (2001).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Remand is necessary for a city to address a criterion requiring the existence of a “specific geographic justification” to site a memorial within a public park, where the city’s findings do not identify a geographic justification or explain why no such justification is needed. *Carlsen v. City of Portland*, 39 Or LUBA 93 (2000).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Conditions imposed on a proposed motocross race track and off-road vehicle park that noise from the park must comply with DEQ standards and not exceed 99 decibels are inadequate to support a finding of compliance with the noninterference standard, where the county does not determine whether compliance with DEQ standards will prevent identified impacts on surrounding farm and forest practices, and the only mechanism for achieving compliance is to limit the noise from individual vehicles to 99 decibels. Without addressing the cumulative noise impacts of multiple vehicles, the county is no position to conclude that identified impacts will not occur. *Utsey v. Coos County*, 38 Or LUBA 516 (2000).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where a petitioner challenges a variance decision and asserts that he raised relevant issues below, the challenged decision does not include findings addressing those issues and no party appears to dispute that petitioner raised the issues, LUBA will remand the challenged decision. *Bates v. City of Cascade Locks*, 38 Or LUBA 349 (2000).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Although a decision maker is required to adopt findings that respond to relevant issues that are raised in quasi-judicial land use hearings, the decision maker is not necessarily required to adopt findings addressing particular items of evidence, provided LUBA is able to conclude that a reasonable decision maker could reach the disputed decision based on all the evidence. *Schwerdt v. City of Corvallis*, 38 Or LUBA 174 (2000).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. A local code criterion that requires a county to consider comments and recommendations of adjacent and vicinity property owners does not require that the county adopt findings that address every comment or recommendation. *Dayton Prairie Water Assoc. v. Yamhill County*, 38 Or LUBA 14 (2000).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where an issue was raised below concerning whether a proposed bed and breakfast facility violated a plan policy regulating commercial development and is not addressed in a hearings officer's decision and the policy itself and related plan and land use regulation provisions are unclear whether the policy applies, LUBA will remand the decision. *Hatfield v. City of Portland*, 37 Or LUBA 664 (2000).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where no issue is raised during local proceedings concerning whether a need to save significant trees on a site would reduce the number of houses that can be constructed on a site, the city was not required to adopt findings addressing that question. Absent some reason to suspect the trees presented a development constraint, the city's decision to rely on assumptions concerning development potential of the site that do not take the trees into account is supported by substantial evidence. *Neighbors for Livability v. City of Beaverton*, 37 Or LUBA 408 (1999).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Findings that rely on the testimony of a wildlife biologist to determine that proposed mitigation

measures result in a development that will not seriously interfere with fish and wildlife habitat are adequate to address petitioners' concern about the impact of the proposed development on wildlife habitat. *Plotkin v. Washington County*, 36 Or LUBA 378 (1999).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. A decision that is not responsive to the inquiry required by applicable zoning ordinances, and does not respond to relevant issues raised during local proceedings pursuant to such ordinances, fails to provide adequate findings. *Wood v. Crook County*, 36 Or LUBA 143 (1999).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where the applicant for a planned unit development proposes to use an area to satisfy both open space and water quality facility requirements, and petitioner and a staff report raise concerns below that the proposed open space fails to comply with approval standards because it is unusable for any purpose other than for drainage, the county must adopt findings addressing that issue. *Hard Rock Enterprises v. Washington County*, 36 Or LUBA 106 (1999).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where subdivision approval criteria do not require that the city determine whether a particular access route would be the "primary" access route, the city's failure to adopt such a finding and a lack of substantial evidence that the particular access route would be the primary access route provides no basis for reversal or remand. *Hunt v. City of Ashland*, 35 Or LUBA 467 (1999).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. A county's finding of compliance with a standard requiring that a nonforest dwelling not interfere with forest practices is inadequate, where the county merely finds that the proposed dwelling presents no greater risk of fire than posed by existing residential development, and fails to address evidence that the cumulative risk of fire from the proposed dwelling and existing development will require the owner of an adjacent forestry operation to change forestry practices and incur additional costs. *Thomas v. Wasco County*, 35 Or LUBA 173 (1998).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where specific issues are raised concerning compliance with an approval criterion, the findings supporting the decision must respond to those issues. *Rouse v. Tillamook County*, 34 Or LUBA 530 (1998).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. A decision amending a comprehensive plan must specifically identify the applicable statewide planning goals and include findings that substantively address how the proposed comprehensive plan amendment assures compliance with those goals. It is insufficient to make passing reference to the general subject matter of the goals in addressing other approval criteria. *Larvik v. City of La Grande*, 34 Or LUBA 467 (1998).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where there is no requirement to determine whether property is surplus for purposes of rezoning, a local government does not violate any procedural rights by not considering the surplus status of the property in its decision to rezone the property. *St. Johns Neighborhood v. City of Portland*, 34 Or LUBA 46 (1998).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where an issue is raised below whether a condition imposed in a prior land use decision supplies an applicable approval standard in subsequent land use decisions, the local government must determine whether the condition is an applicable criterion for approval and, if so, whether it is satisfied. *Bradbury v. City of Bandon*, 33 Or LUBA 664 (1997).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where visual impact, noise and safety issues are relevant to compliance with applicable standards and are raised by petitioner below, the local government must adequately address those issues, and conclusory findings unsupported by substantial evidence are inadequate. *Port Dock Four, Inc. v. City of Newport*, 33 Or LUBA 613 (1997).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. There is no legal requirement that a local government address in its findings conflicting evidence upon which it chooses not to rely. Where a petitioner presents conflicting evidence to the city during a local appeal, but does not raise new issues, the city may rely on findings prepared prior to the local appeal. *Tandem Development Corp. v. City of Hillsboro*, 33 Or LUBA 335 (1997).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where the city makes a determination that it is feasible to comply with a local code standard requiring that each lot in a proposed subdivision be buildable, it may defer addressing engineering details to a later date. *Brown v. City of Ontario*, 33 Or LUBA 180 (1997).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. ORS 215.416(9) does not require the county's findings to respond to each of the arguments raised by petitioners or to discuss each of the facts that petitioners would choose the decision to rely on. *Mission Bottom Assoc. v. Marion County*, 32 Or LUBA 56 (1996).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. In approving a conditional use permit for a nonfarm dwelling, the county must make findings required by ORS 215.284(2)(c) or 215.284(3)(c) regarding the legal creation of the subject property as a separate parcel. *O'Brien v. Lincoln County*, 31 Or LUBA 262 (1996).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Law of the case only applies where an issue has been resolved in an earlier appeal. The county cannot rely on petitioners' failure to assign error under Goal 3 in a previous appeal to conclude that LUBA has made a de facto determination that the county's findings establish compliance with its own agricultural lands goal. *Brown v. Coos County*, 31 Or LUBA 142 (1996).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. In the absence of adequate findings, LUBA may affirm a local government's conclusion that a particular criterion is satisfied when facts in the record clearly support the conclusion. However, when there are no findings of compliance with a particular criterion, which was identified as applicable by the local staff and raised as an issue during the local proceedings, LUBA will not consider whether disputed facts could support findings of compliance. *DLCD v. Clatsop County*, 31 Or LUBA 90 (1996).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. The county's failure to address in findings the issues raised by a state agency not only shows a failure to cooperate as required by the county's plan, but also violates the general rule that when a relevant issue is raised in the local proceedings, it must be addressed in findings. *Furler v. Curry County*, 31 Or LUBA 1 (1996).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. LUBA need not determine whether each one of the county's findings independently could satisfy the rough proportionality test established in *Dolan v. City of Tigard*, 512 US 374, 114 S Ct 2309, 129 L Ed2d 304 (1994). Rather, LUBA need only determine whether cumulatively the county's findings establish that there is a sufficient connection between the impacts of the proposed development and the dedication and frontage road improvements the county is requiring. *Art Piculell Group v. Clackamas County*, 30 Or LUBA 381 (1996).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. A local government's design review approval for a proposed apartment complex must be remanded where it does not contain findings that address relevant approval standards relating to open space and recreation, and does not address issues raised in the proceedings below that are relevant to compliance with those standards. *Winkler v. City of Cottage Grove*, 30 Or LUBA 351 (1996).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. The county is not required to address all conflicting evidence in its findings, but the findings must address and respond to specific issues raised in the local proceedings that are relevant to compliance with approval standards. *Thomas v. Wasco County*, 30 Or LUBA 302 (1996).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where a local decision approving a replacement dwelling does not make specific findings regarding the applicability of a local ordinance establishing a legal access requirement, and does not indicate whether legal access is a mandatory approval standard, the decision must be remanded for appropriate findings. *Drake v. Polk County*, 30 Or LUBA 199 (1995).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. When LUBA's remand order requires the county to address one code provision, the fact that certain issues raised under that code provision are also addressed by another code provision does not broaden the scope of the remand order to include the latter. *Reeves v. Yamhill County*, 30 Or LUBA 135 (1995).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where the city's findings of compliance with an ambiguous provision are inadequate and unresponsive to the issues raised by petitioners, on remand the city must specifically respond to those issues and explain its conclusions. *Canby Quality of Life Committee v. City of Canby*, 30 Or LUBA 166 (1995).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. A local government is not required to make findings to address criteria that it has found to be inapplicable. *East Lancaster Neigh. Assoc. v. City of Salem*, 30 Or LUBA 147 (1995).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. When a local ordinance requires a determination that its specific requirements can be satisfied by the imposition of conditions, the city must make findings, supported by substantial evidence, with respect to feasibility. *Marcott Holdings, Inc. v. City of Tigard*, 30 Or LUBA 101 (1995).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. When specific issues relevant to compliance with applicable approval standards are raised in the proceedings before the county, the county's findings must address and respond specifically to those issues. *Collier v. Marion County*, 29 Or LUBA 462 (1995).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. The county's denial of a developed exception will be upheld when the county finds that the physical characteristics of the property do not render it irrevocably committed to nonresource uses; there is continuing resource use of properties to the north, east and west; and the existence of public facilities and services installed to serve the residence on the site do not irrevocably commit the remainder of the site to nonresource uses. *Sandgren v. Clackamas County*, 29 Or LUBA 454 (1995).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. A local government decision granting site plan approval for off-street parking use of property containing an existing dwelling must address issues raised by petitioners concerning whether the approved site plan results in violations of code yard and setback requirements for the existing dwelling. *Jackman v. City of Tillamook*, 29 Or LUBA 391 (1995).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Failure of local government findings to address a specific issue raised by a party below, which is relevant to compliance with applicable approval standards, is a basis for remand. *Moore v. Clackamas County*, 29 Or LUBA 372 (1995).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where, during a local government proceeding regarding the existence of a nonconforming use, specific issues were raised concerning whether a complete or partial interruption or abandonment of any nonconforming use of the subject property had occurred, findings that simply state

use of the property has not been interrupted or abandoned are impermissibly conclusory. *Suydam v. Deschutes County*, 29 Or LUBA 273 (1995).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. If relevant issues concerning compliance with applicable permit standards were specifically raised in the local government proceedings, they must be addressed in the local government's findings. *Skrepetos v. Jackson County*, 29 Or LUBA 193 (1995).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where petitioner seeks remand because the challenged decision fails to include findings on specific relevant issues raised in testimony below, petitioner must explain why the cited testimony is relevant to an applicable approval standard. *ONRC v. City of Oregon City*, 29 Or LUBA 90 (1995).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where the local code requires a determination that the proposal be in harmony with the natural environment in the area, and there is no dispute that native plant communities are a relevant characteristic of the natural environment, the decision must include findings determining the proposal is in harmony with the native plant communities in the natural environment. *Friends of the Metolius v. Jefferson County*, 28 Or LUBA 591 (1995).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where the local code requires a determination that the proposal have minimal adverse impacts on the surrounding area, and the subject property is located within a wild and scenic river corridor, the decision must include findings evaluating the proposal's impacts on the wild and scenic river corridor. *Friends of the Metolius v. Jefferson County*, 28 Or LUBA 591 (1995).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Past use of property adjacent to the subject property as part of a nonconforming use would not establish a right to continue, on the subject property, the part of the nonconforming use that was located on other property. Where such issue is raised during local proceedings to determine the nature and extent of the nonconforming use of the subject property, it must be addressed in the local government's findings. *Tylka v. Clackamas County*, 28 Or LUBA 417 (1994).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where a local government is required under its code to determine whether 10 percent of the "total project value" has been expended for construction, and parties raise relevant issues before the local government concerning what should be included in determining "total project value," the local government must address those issues in its findings. *McKenzie v. Multnomah County*, 27 Or LUBA 523 (1994).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. A local government's findings supporting its decision on a conditional use application must address specific issues that were raised during the local proceedings and are relevant to

compliance with applicable approval standards. *Bottum v. Union County*, 26 Or LUBA 407 (1994).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Failure to determine the cumulative impacts of a proposal provides no basis for reversal or remand of a decision unless petitioner establishes that some legal standard requires a determination of cumulative impacts. *City of Barlow v. Clackamas County*, 26 Or LUBA 375 (1994).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. In the absence of a legal requirement that a local government determine an applicant's intent with regard to a development proposal, a local government has no obligation to determine such intent or to examine an applicant's prior history of compliance with land use or other regulations. *City of Barlow v. Clackamas County*, 26 Or LUBA 375 (1994).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Findings must address and respond to specific issues relevant to compliance with applicable approval standards that were raised in the proceedings below. *Testa v. Clackamas County*, 26 Or LUBA 357 (1994).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. A local government's findings on the reasons justifying a goal exception under ORS 197.732(1)(c)(A) and OAR 660-04-022(1)(a) must respond to issues specifically raised by petitioners below concerning possible means of lessening or eliminating the need for the proposed use. *Pacific Rivers Council, Inc. v. Lane County*, 26 Or LUBA 323 (1993).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where petitioners raised an issue below concerning whether a particular code provision is an applicable approval standard, and the challenged decision contains no interpretation explaining that code provision is either inapplicable or satisfied, LUBA must remand the challenged decision. *Hixson v. Josephine County*, 26 Or LUBA 159 (1993).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where petitioners fail to identify any applicable standard arguably limiting the validity of a local government's initial PUD development plan approval to a particular period of time, the local government's failure to address the issue of whether the PUD development plan expired does not provide a basis for reversal or remand. *Gage v. City of Portland*, 25 Or LUBA 449 (1993).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where the challenged decision acknowledges arguments below that emergency vehicles may have difficulty accessing a site proposed for urban level residential development, the challenged decision must explain how the proposal complies with Goal 11 in view of that acknowledged difficulty. *Neuharth v. City of Salem*, 25 Or LUBA 267 (1993).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. When a party raises a relevant issue below concerning whether a perceived surplus of classroom seats is in fact not a surplus due to the effects of already approved development, the local government must address that issue in its findings. *Burghardt v. City of Molalla*, 25 Or LUBA 43 (1993).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Where an applicable code criterion requires that an existing structure have been issued all necessary permits in the past and a party raises a substantial issue concerning whether such is the case, the local government is required to adopt findings explaining why the code criterion is met and those findings must be supported by substantial evidence. *Mercer v. Josephine County*, 23 Or LUBA 608 (1992).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. A general plan policy concerning transportation safety does not require that findings supporting a legislative comprehensive plan transportation map amendment negate every potential safety problem that might result from future implementation of the improvements authorized by the plan amendment. *Davenport v. City of Tigard*, 23 Or LUBA 565 (1992).

1.4.6 Administrative Law – Adequacy of Findings – Issues Addressed. Findings must address and respond to specific issues relevant to compliance with applicable approval standards that were raised in the proceedings below. *Heiller v. Josephine County*, 23 Or LUBA 551 (1992).